

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 21-267 (WMW)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**POSITION REGARDING
SENTENCING**

MATTHEW DAVIS McCOLLISTER,

Defendant.

The United States of America, by and through its attorneys, Andrew M. Luger, United States Attorney for the District of Minnesota, and David J. MacLaughlin, Assistant United States Attorney, submits its Position Regarding Sentencing with respect to defendant Matthew David McCollister.

BACKGROUND

The United States agrees that the facts as set forth in the Presentence Investigation Report (“PSR”) accurately summarize the relevant offense conduct and requests that the Court adopt the facts summarized in the PSR as its findings in this case. (PSR ¶¶ 7-16). As well, the government agrees with the guidelines calculations set forth in paragraphs 23 through 31 of the PSR. Thus, the government submits that Mr. McCollister’s total offense level is 12, resulting in a guidelines range of imprisonment of 10 to 16 months.

As described in the PSR, McCollister pleaded guilty to one count of conspiracy to commit healthcare fraud from 2016 through 2017, in violation of 18 U.S.C. § 1349. This

offense, committed by a Minnesota lawyer who had built-in advantages in life, is egregious, and resulted in extensive harm to the community of persons who pay automobile insurance premiums (which is practically everybody). For the reasons stated below, the government respectfully recommends that the Court sentence Mr. McCollister to the custody of the United States Bureau of Prisons for 16 months. This is the same sentence Judge Brasel imposed upon the only other attorney convicted in the myriad of so-called “back cracker” cases in this district. *See United States v. William Sutor*, Criminal No. 19-343 (NEB).

ARGUMENT

Mr. McCollister was a Minnesota attorney from October 30, 2009, through February 2022, when he was disbarred. PSR ¶ 55. Prior to becoming an attorney, it appears that Mr. McCollister enjoyed the privileges of a stable upbringing in New Prague, Minnesota. PSR ¶ 42. Mr. McCollister graduated from New Prague High School in 1999, having been a popular athlete and good student. PSR ¶¶ 42 and 54. Mr. McCollister then earned a history degree from the University of Wisconsin at River Falls in 2003, and a J. D. from Hamline School of Law in 2009. It appears that, as a lawyer, Mr. McCollister generated substantial income. PSR ¶ 66. Mr. McCollister lives with his wife and three children in a \$660,000 home in which the couple have approximately \$350,000 in equity. PSR ¶ 65.

Despite these advantages, Mr. McCollister has serially abused his law license. According to documents from the Office of Lawyers Professional Responsibility, summarized in the PSR in paragraph 55, Mr. McCollister has at least twice settled

contested matters without consulting with his clients, and forged his clients' signatures on the settlement documents. Mr. McCollister was disbarred, not because of the facts underlying this criminal matter, but because Mr. McCollister separately stole \$16,300 in personal-injury settlement funds between July 2020 and December 2020.

Mr. McCollister also abused his law license to rip off automobile insurance companies in this case. Specifically, Mr. McCollister met with an undercover cooperator with the Minnesota Commerce Fraud Bureau on March 1, 2016, at a Red Cow Restaurant in St. Paul. The cooperator was posing as a "runner" -- that is, a person willing to recruit patients to receive chiropractic care funded by automobile insurance for a fee. Mr. McCollister knew that using runners to recruit patients for insurance-funded chiropractic care was illegal. Despite this knowledge, Mr. McCollister agreed to pay the runner/cooperator more than \$300 for each "patient" the runner recruited. The idea was that the runner would bring the supposedly injured persons to certain chiropractors to receive treatments, and Mr. McCollister, representing the persons in connection with their chiropractic treatments, would assert claims against automobile insurance companies for purported bodily injuries resulting from the car accidents.

The undercover runner did recruit two patients at Mr. McCollister's request but, unbeknownst to Mr. McCollister, both patients were also undercover cooperators with the Minnesota Commerce Fraud Bureau. Mr. McCollister directed one of the two undercover patients to be "treated" by the notorious chiropractor Huy Nguyen, who is serving his sentence for his role in the conspiracy.

Huy Nguyen's notoriousness could not have escaped Mr. McCollister's attention. In December 2015, law enforcement executed a search warrant at Huy Nguyen's chiropractic clinic, Healthcare Chiropractic, in Brooklyn Park, where Mr. McCollister maintained an informal office and spent considerable time. Mr. McCollister thus knew that Huy Nguyen was under investigation for healthcare fraud when Mr. McCollister directed the undercover patient to be "treated" at Nguyen's clinic in March 2016.

Mr. McCollister's brazen use of a known crooked chiropractor continued unabated throughout 2016 and into 2017. On March 16, 2016, the undercover runner had lunch with Mr. McCollister, Huy Nguyen, and another now-convicted conspirator/MRI specialist named Quincy Chettupally at Fogo De Chao in downtown Minneapolis. The lunch was video recorded without Mr. McCollister's knowledge. The conspirators openly discussed the scheme to defraud automobile insurance companies. The conversation included discussions of how much runners were to be paid by each member of the conspiracy to recruit patients.

In December 2016, a grand jury indicted Huy Nguyen in the conspiracy to which Mr. McCollister pled guilty in this case. *United States v. Huy Nguyen et al.*, Criminal No. 16-340 (MJD), ECF No. 1. In August 2017, the grand jury added Quincy Chettupally to the conspiracy count. ECF No. 96. Yet Mr. McCollister persisted in threatening to sue Liberty Mutual Insurance Company for chiropractic services supposedly provided to the undercover patient by Huy Nguyen. Specifically, on December 4, 2017, more than 2 years after the search of Huy Nguyen's clinic, and *more than 6 months* after two of the men with

whom Mr. McCollister had lunch at Fogo De Chao were indicted in the conspiracy charged in this case, Mr. McCollister sent a letter to Liberty Mutual Insurance Company, demanding a \$25,000 injury settlement to be paid to the undercover patient for treatments supposedly provided by Huy Nguyen. PSR ¶ 13. Interestingly, but not surprisingly, Mr. McCollister did not consult with the undercover patient before making this settlement demand.

Mr. McCollister is the second attorney charged and convicted in the line of “operation back cracker” cases which have been brought in this district. The first attorney, Mr. Sutor, received a sentence of 16 months’ imprisonment. Mr. Sutor was convicted of the same offense as Mr. McCollister (conspiracy to commit healthcare fraud), engaged in substantially the same conduct as Mr. McCollister, and had the same guidelines range as Mr. McCollister. In this case, as in the Sutor case, a sentence of 16 months, and not less than 16 months, is necessary to reflect the seriousness of Mr. McCollister’s offense, which victimized drivers who pay insurance premiums throughout the entire country.

CONCLUSION

For the foregoing reasons, the government respectfully recommends a sentence of

16 months of imprisonment.

Dated: April 26, 2022

Respectfully submitted,

ANDREW M. LUGER
United States Attorney

s/ David J. MacLaughlin

BY: DAVID J. MACLAUGHLIN
Assistant U.S. Attorney